

REMARKS

Upon entry of the proposed amendment, Claims 1 and 6 will be amended. Claims 2-5, 7 and 8 were cancelled by a prior amendment. Independent Claim 1, with Claim 6 depending therefrom will remain for consideration.

In the Final Office Action the Examiner rejected Claims 1 and 6 under 35 U.S.C. § 103(a) as being unpatentable over JP 2000-16392 in view of Bochan (US 3,118,468).

Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the applied and cited prior art. Reconsideration of the present application is respectfully requested.

Japanese patent No. JP 2000-16392 discloses a watercraft with an engine, producing exhaust gas. The exhaust gas travels through a conduit, which is provided with an attachment 2 or 17, having a deformable slit 4 or 18. The purpose of the invention, or attachment 2, of the Japanese patent is “to suppress the reflecting noise of the exhaust gas (JP 2000-16392, translation of abstract).” Watercrafts of this type are propelled by water jet propulsion systems. The “exhaust” of this Japanese patent is combustion exhaust and is not a propulsion exhaust. The attachment, 4 or 17, of JP 2000-16392 is installed on a combustion exhaust gas conduit, not on a propulsion exhaust conduit. Thus, JP 2000-16392 does not show 1) a propulsion exhaust flowing through a conduit, and 2) a propulsion exhaust altering attachment disposed on the conduit, the attachment having a generally elongated, open S-shaped slit having inwardly and outwardly opposing portions.

The patent to Bochan discloses a resilient check valve, formed of a rubber-like material. The valve has an annular base 6, which is intended to be secured at the inner surface of a conduit 2. The valve includes a hollow portion 10 having an inlet end 11 joined to the base 6 and an outlet end 12. A closed, S-shaped slit 14 is formed in the S-shaped outlet end 12. The slit may be forced open by fluid pressure, from a normal closed position to an open position, at which point hollow portion 10 approximates the shape of a cylinder. If any back pressure is experienced in the conduit 2, valve 7 will cause the sides of slit 14 to be firmly pressed against each other to close the slit. It should be noted, that when the slit 14 of Bochan is "S-shaped", with inwardly and outwardly opposing portions, the slit is closed, unlike the open "S-shaped" slit of Applicant's attachment. Thus, Bochan also does not show 1) a propulsion exhaust flowing through a conduit, and 2) a propulsion exhaust altering attachment disposed on the conduit, where the attachment has a generally elongated, open S-shaped slit having inwardly and outwardly opposing portions.

The Examiner believes that it would have been obvious to modify the attachment of JP 2000-16392 to have an S-shaped slit, as taught by the S-shaped slit in the check valve of Bochan, and that the use of the S-shape will inherently result in an exhaust having a three dimensional helical pattern. Applicant does not agree with the Examiner's conclusion. In this regard, there is clearly no suggestion or incentive in the applied references to JP 2000-16392 and Bochan to modify the attachment in the Japanese patent as urged by the Examiner, absent the teachings of Applicant's own disclosure. The teachings of Bochan, an internal conduit check valve having a closed S-shape, simply do not suggest to one of ordinary skill in the art to modify the slit in the combustion exhaust gas attachment of JP

2000-16392 to be an open S-shape as Applicant's claims recite, and as the Examiner proposes. Additionally, Bochan teaches a valve that opens to a cylindrical shape, which would certainly not produce a resultant exhaust configuration of a three dimensional helical pattern, as urged by the Examiner. Finally, Bochan fails to supply other features lacking in the basic Japanese reference, noted above. Those features that are neither taught nor suggested by either JP 2000-16392 or Bochan being 1) a propulsion exhaust flowing through a conduit, and 2) a propulsion exhaust altering attachment disposed on the conduit, where the attachment has a generally elongated, open S-shaped slit having inwardly and outwardly opposing portions. MPEP § 2143 states: "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. **Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added)." Since, as noted above, there are features recited in Applicant's amended claims, which are not taught or suggested by JP 2000-16392 and Bochan, and the teachings of Bochan simply do not suggest to one of ordinary skill in the art to modify the attachment of JP 2000-16392 as the Examiner proposes, the rejection of Claims 1 and 6 under 35 U.S.C. § 103(a) based on JP 2000-16392 and Bochan is improper and should be withdrawn.

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Applicant respectfully submits that the proposed amendments made herein properly respond to the outstanding Final Rejection and represent a *bona fide* effort to satisfactorily conclude the prosecution of this application. Care has been exercised to insure that no new matter has been introduced and that no new issues have been raised that would require further consideration or search. It is felt that no inordinate amount of time will be required on the part of the Examiner to review and consider this amendment. Applicant respectfully requests entry and favorable consideration of the proposed amendment. In the event that the application is not allowed, it is requested that this amendment be entered for purposes of appeal.

For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert W. Gibson". The signature is fluid and cursive, with the first name "Robert" being more prominent.

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